IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 21ST MARCH 2007 / 30TH PHALGUNA 1928

Crl.MC.No. 717 of 2007()

AGAINST THE ORDER IN CRMP 243/07 IN
CRA.69/2007 of SESSIONS COURT, TRIVANDRUM

.....

PETITIONER: APPELLANT/ACCUSED

T.R.SANTHI, SANTHY VIHAR,
PUNNAMOODU, PALLICHAL P.O.,
THIRUVANANTHAPURAM.

BY ADV. SRI.G.SUDHEER

RESPONDENTS: RESPONDENTS/COMPLAINANT & STATE

---

1. UNNIKUTTAN, ERATTAPLAVILA VEEDU,
ATHIYANOOR, RAMAPURAM, THANNIMOODU P.O.,
NEYYATTINKARA.

2. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

R2 BY PUBLIC PROSECUTOR SRI.S.U. NAZAR

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 21/03/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

- -

Crl.M.C.No. 717 of 2007

- -

Dated this the 21st day of March, 2007

O R D E R

The petitioner has been found guilty, convicted and sentenced in a prosecution under Section 138 of the N.I. Act. She has preferred an appeal before the learned Sessions Judge. The learned Sessions Judge admitted the appeal and suspended the sentence subject to conditions. Inter alia, she has been directed to pay an amount of Rs.35,000/- which is 1/10th of the amount of compensation ordered by the learned Magistrate. The petitioner could not deposit the amount as directed. She prayed for modification of the condition. The learned Sessions Judge by Annex.B order granted the petitioner a months further time from 9.2.07 to pay the amount. The petitioner has come to this Court on 14.3.07 with this petition under Section 482 Cr.P.C. The short prayer is that the condition that she must deposit an amount of Rs.35,000/- may be modified.

2. The jurisdictional competence of the learned Sessions Judge to impose such a condition is not called in question at all. Even the judgment of the trial court has not been produced before me and there is no attempt to urge that the discretion has been invoked and

exercised perversely. I am, in these circumstances, unable to find any reason to interfere with the discretion exercised by the learned Sessions Judge in imposing the condition. However, I take note of the submission of the learned counsel for the petitioner that the petitioner is an unemployed widow and if such insistence were made of deposit of amount, she will have to face the predicament of being forced to suffer the sentence even before her appeal is taken up for consideration by the learned Sessions Judge. I am satisfied that directions under Section 482 Cr.P.C. in the interests of justice can be issued.

3. This Crl.M.C. is allowed in part. The petitioner is granted time till 21.4.2007 to pay the said amount of Rs.35,000/- If the petitioner is unable to pay the said amount, she shall within ten days from this date file a petition before the learned Sessions Judge to apprise the learned Sessions Judge of that fact and seek early disposal, whereupon the learned Sessions Judge shall proceed to dispose of the appeal itself before 21.4.2007.

4. Hand over copy of this order to the learned counsel for the petitioner, who shall forthwith produce the same before the learned Sessions Judge.

(R. BASANT)
Judge

tm